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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW

(Legislative Department)

New Delhi, the 2nd September, 1968|*Bhadra* 11, 1890 (*Saka*)

The following Act of Parliament received the assent of the President on the 2nd September, 1968, and is hereby published for general information:—

THE BORDER SECURITY FORCE ACT, 1968

No. 47 OF 1968

[*2nd September,* 1968]

An Act to provide for the constitution and regulation of an Armed Force of the Union for ensuring the security of the borders of India and for matters connected therewith.

BE it enacted by Parliament in the Nineteenth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (*1*) This Act may be called the Border Security Force Act, 1968. Short title and commencement.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. (*1*) In this Act, unless the context otherwise requires,—

(*a*) "active duty", in relation to a person subject to this Act, means any duty as a member of the Force during the period in which such person is attached to, or forms part of, a unit of the Force—

(*i*) which is engaged in operations against an enemy, or

(*ii*) which is operating at a picket or engaged on patrol or other guard duty along the borders of India,

and includes duty by such person during any period declared by the Central Government by notification in the Official Gazette as a period of active duty with reference to any area in which any person or class of persons subject to this Act may be serving;

(*b*) "battalion" means a unit of the Force constituted as a battalion by the Central Government;

(*c*) "Chief Law Officer" and "Law Officer" mean, respectively, the Chief Law Officer and a Law Officer of the Force appointed by the Central Government;

(*d*) "civil offence" means an offence which is triable by a criminal court;

(*e*) "civil prison" means any jail or place used for the detention of any criminal prisoner under the Prisons Act, 1894, or under any other law for the time being in force; 9 of 1894.

(*f*) "Commandant", when used in any provision of this Act with reference to any unit of the Force, means the officer whose duty it is under the rules to discharge with respect to that unit, the functions of a Commandant in regard to matters of the description referred to in that provision;

(*g*) "criminal court" means a court of ordinary criminal justice in any part of India;

(*h*) "Deputy Inspector-General" means a Deputy Inspector-General of the Force appointed under section 5;

(*i*) "Director-General" means the Director-General of the Force appointed under section 5;

(*j*) "enemy" includes all armed mutineers, armed rebels, armed rioters, pirates and any person in arms against whom it is the duty of any person subject to this Act to take action;

(*k*) "enrolled person" means an under-officer or other person enrolled under this Act;

(*l*) "Force" means the Border Security Force,

(*m*) "Force custody" means the arrest or confinement of a member of the Force according to rules;

(*n*) "Inspector-General" means the Inspector-General of the Force appointed under section 5;

(o) "member of the Force" means an officer, a subordinate officer, an under-officer or other enrolled person;

(*p*) "notification" means a notification published in the Official Gazette;

(*q*) "offence" means any act or omission punishable under this Act and includes a civil offence;

(*r*) "officer" means a person appointed or in pay as an officer of the Force, but does not include a subordinate officer or an under-officer;

(*s*) "prescribed" means prescribed by rules made under this Act;

(*t*) "rule" means a rule made under this Act;

(*u*) "Security Force Court" means a Court referred to in section 64;

(*v*) "subordinate officer" means a person appointed or in pay as a Subedar-Major, a Subedar or a Sub-Inspector of the Force;

(*w*) "superior officer", when used in relation to a person subject to this Act, means,—

(*i*) any member of the force to whose command such person is for the time being subject in accordance with the rules;

(*ii*) any officer of higher rank or class or of a higher grade in the same class;

and includes when such person is not an officer, a subordinate officer or an under-officer of higher rank, class or grade;

(*x*) "under-officer" means a Head Constable, Naik and Lance Naik of the Force;

(*y*) all words and expressions used and not defined in this Act but defined in the Indian Penal Code shall have the meanings assigned to them in that Code. 45 of 1860.

(2) In this Act, references to any law not in force in the State of Jammu and Kashmir shall be construed as references to the corresponding law in force in that State.

Persons subject to this Act.

3. (*1*) The following persons shall be subject to this Act, wherever they may be, namely:—

(*a*) officers and subordinate officers; and

(*b*) under-officers and other persons enrolled under this Act.

(*2*) Every person subject to this Act shall remain so subject until retired, discharged, released, removed or dismissed from the Force in accordance with the provisions of this Act and the rules.

CHAPTER II

CONSTITUTION OF THE FORCE AND CONDITIONS OF SERVICE OF THE MEMBERS OF THE FORCE

Constitution of the Force.

4. (*1*) There shall be an armed force of the Union called the Border Security Force for ensuring the security of the borders of India.

(*2*) Subject to the provisions of this Act, the Force shall be constituted in such manner as may be prescribed and the conditions of service of the members of the Force shall be such as may be prescribed.

Control, direction, etc.

5. (*1*) The general superintendence, direction and control of the Force shall vest in, and be exercised by, the Cenral Government and subject thereto and to the provisions of this Act and the rules, the command and supervision of the Force shall vest in an officer to be appointed by the Central Government as the Director-General of the force.

(*2*) The Director-General shall, in the discharge of his duties under this Act, be assisted by such number of Inspectors-General, Deputy Inspectors-General, Commandants and other officers as may be appointed by the Central Government.

Enrolment.

6. (*1*) The persons to be enrolled to the Force, the mode of enrolment, and the procedure for enrolment shall be such as may be prescribed by the Central Government.

(*2*) Notwithstanding anything contained in this Act and the rules, every person who has, for a continuous period of three months, been in receipt of pay as a person enrolled under this Act and borne on the rolls of the Force shall be deemed to have been duly enrolled.

Liability for service outside India.

7. Every member of the Force shall be liable to serve in any part of India as well as outside India.

Resignation and withdrawal from the post.

8. No member of the Force shall be at liberty,—

(*a*) to resign his appointment during the term of his engagement; or

(*b*) to withdraw himself from all or any of the duties of his appointment,

except with the previous permission in writing of the prescribed authority.

Tenure of service under the Act.

9. Every person subject to this Act shall hold office during the pleasure of the President.

Termination of service by Central Government.

10. Subject to the provisions of this Act and the rules, the Central Government may dismiss or remove from the service any person subject to this Act.

Dismissal, removal or reduction by the Director-General and by other officers.

11. (*1*) The Director-General or any Inspector-General may dismiss or remove from the service or reduce to a lower grade or rank or the ranks any person subject to this Act other than an officer.

(*2*) An officer not below the rank of Deputy Inspector-General or any prescribed officer may dismiss or remove from the service any person under his command other than an officer or a subordinate officer of such rank or ranks as may be prescribed.

(*3*) Any such officer as is mentioned in sub-section (*2*) may reduce to a lower grade or rank or the ranks any person under his command except an officer or a subordinate officer.

(*4*) The exercise of any power under this section shall be subject to the provisions of this Act and the rules.

Certificate of termination of service.

12. A subordinate officer, or an under-officer or other enrolled person who is retired, discharged, released, removed or dismissed from the service shall be furnished by the officer, to whose command he is subject, with a certificate in the language which is the mother tongue of such person and also in Hindi or English language setting forth—

(*a*) the authority terminating his service;

(*b*) the cause for such termination; and

(*c*) the full period of his service in the Force.

Restrictions respecting right to form association, freedom of speech, etc.

13. (*1*) No person subject to this Act shall, without the previous sanction in writing of the Central Government or of the prescribed authority,—

(*a*) be a member of, or be associated in any way with, any trade union, labour union, political association or with any class of trade unions, labour unions or political associations; or

(*b*) be a member of, or be associated in any way with, any society, institution, association or organisation that is not recognised as part of the Force or is not of a purely social, recreational or religious nature; or

(*c*) communicate with the press or publish or cause to be published any book, letter or other document except where such communication or publication is in the *bona fide* discharge of his duties or is of a purely literary, artistic or scientific character or is of a prescribed nature.

Explanation.—If any question arises as to whether any society, institution, association or organisation is of a purely social, recreational or religious nature under clause (*b*) of this sub-section, the decision of the Central Government thereon shall be final.

(*2*) No person subject to this Act shall participate in, or address, any meeting or take part in any demonstration organised by any body of persons for any political purposes or for such other purposes as may be prescribed.

CHAPTER III

OFFENCES

Offences in relation to the enemy and punishable with death.

14. Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) shamefully abandons or delivers up any post, place or guard, committed to his charge or which it is his duty to defend; or

(*b*) intentionally uses any means to compel or induce any person subject to this Act or to military, naval or air force law to abstain from acting against the enemy or to discourage such person from acting against the enemy; or

(*c*) in the presence of the enemy, shamefully casts away his arms, ammunition, tools or equipment or misbehaves in such manner as to show cowardice; or

(*d*) treacherously holds correspondence with, or communicates intelligence to, the enemy or any person in arms against the Union; or

(*e*) directly or indirectly assists the enemy with money, arms, ammunition, stores or supplies or in any other manner whatsoever; or

(*f*) in time of active operation against the enemy, intentionally occasions a false alarm in action, camp, quarters, or spreads or causes to be spread reports calculated to create alarm or despondency; or

(*g*) in time of action leaves his Commandant or other superior officer or his post, guard, picket, patrol or party without being regularly relieved or without leave; or

(*h*) having been captured by the enemy or made a prisoner of war, voluntarily serves with or aids the enemy; or

(*i*) knowingly harbours or protects an enemy not being a prisoner; or

(*j*) being a sentry in time of active operation against the enemy or alarm, sleeps upon his post or is intoxicated; or

(*k*) knowingly does any act calculated to imperil the success of the Force or the military, naval or air forces of India or any forces co-operating therewith or any part of such forces,

shall, on conviction by a Security Force Court, be liable to suffer death or such less punishment as is in this Act mentioned.

Offences in relation to the enemy and not punishable with death.

15. Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) is taken prisoner or captured by the enemy, by want of due precaution or through disobedience of orders, or wilful neglect of duty, or having been taken prisoner or so captured fails to rejoin his service when able to do so; or

(*b*) without due authority holds correspondence with, or communicates intelligence to, the enemy or any person in league with the enemy or having come by the knowledge of any such correspondence or communication, wilfully omits to discover it immediately to his Commandant or other superior officer,

shall, on conviction by a Security Force Court, be liable to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned.

Offences punishable more severely on active duty than at other times.

16. Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) forces a safeguard, or forces or uses criminal force to a sentry; or

(*b*) breaks into any house or other place in search of plunder; or

(*c*) being a sentry sleeps upon his post, or is intoxicated; or

(*d*) without orders from his superior officer leaves his guard, picket, patrol or post; or

(*e*) intentionally or through neglect occasions a false alarm in camp or quarters, or spreads or causes to be spread reports calculated to create unnecessary alarm or despondency; or

(*f*) makes known the parole, watchword or countersign to any person not entitled to receive it; or knowingly gives a parole, watchword or countersign different from what he received,

shall, on conviction by a Security Force Court,—

(*A*) if he commits any such offence when on active duty, be liable to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned; and

(*B*) if he commits any such offence when not on active duty, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

Mutiny.

17. Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) begins, incites, causes or conspires with any other person to cause any mutiny in the Force or in the military, naval or air forces of India or any forces co-operating therewith; or

(*b*) joins in any such mutiny; or

(*c*) being present at any such mutiny, does not use his utmost endeavours to suppress the same; or

(*d*) knowing or having reason to believe in the existence of any such mutiny, or of any intention to mutiny or of any such conspiracy, does not, without delay, give information thereof to his Commandant or other superior officer; or

(*e*) endeavours to seduce any person in the Force or in the military, naval or air forces of India or any forces co-operating therewith from his duty or allegiance to the Union,

shall, on conviction by a Security Force Court, be liable to suffer death or such less punishment as is in this Act mentioned.

Desertion and aiding desertion.

18. (*1*) Any person subject to this Act who deserts or attempts to desert the service shall, on conviction by a Security Force Court,—

(*a*) if he commits the offence when on active duty or when under orders for active duty, be liable to suffer death or such less punishment as is in this Act mentioned; and

(*b*) if he commits the offence under any other circumstances, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

(*2*) Any person subject to this Act who knowingly harbours any such deserter shall, on conviction by a Security Force Court, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

(*3*) Any person subject to this Act who, being cognizant of any desertion or attempt at desertion of a person subject to this Act, does not forthwith give notice to his own or some other superior officer, or take any steps in his power to cause such person to be apprehended, shall, on conviction by a Security Force Court, be liable to suffer imprisonment for a term which may extend to two years or such less punishment as is in this Act mentioned.

Absence without leave.

19. Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) absents himself without leave; or

(*b*) without sufficient cause overstays leave granted to him; or

(c) being on leave of absence and having received information from the appropriate authority that any battalion or part thereof or any other unit of the Force, to which he belongs, has been ordered on active duty, fails, without sufficient cause, to rejoin without delay; or

(*d*) without sufficient cause fails to appear at the time fixed at the parade or place appointed for exercise or duty; or

(*e*) when on parade, or on the line of march, without sufficient cause or without leave from his superior officer, quits the parade or line of march; or

(*f*) when in camp or elsewhere, is found beyond any limits fixed, or in any place prohibited, by any general, local or other order, without a pass or written leave from his superior officer; or

(*g*) without leave from his superior officer or without due cause, absents himself from any school when duly ordered to attend there,

shall, on conviction by a Security Force Court, be liable to suffer imprisonment for a term which may extend to three years or such less punishment as is in this Act mentioned.

Striking or threatening superior officers.

20. Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) uses criminal force to or assaults his superior officer; or

(*b*) uses threatening language to such officer; or

(c) uses insubordinate language to such officer;

shall, on conviction by a Security Force Court,—

(*A*) if such officer is at the time in the execution of office or, if the offence is committed on active duty, be l to suffer imprisonment for a term which may extend to teen years or such less punishment as is in this Act mentio and

(*B*) in other cases, be liable to suffer imprisonment for a term which may extend to ten years or such less punishment as is in this Act mentioned:

Provided that in the case of an offence specified in clause (c), the imprisonment shall not exceed five years.

Disobedience to superior officer.

21. (*1*) Any person subject to this Act who disobeys in such manner as to show a wilful defiance of authority any lawful command given personally by his superior officer in the execution of his office whether the same is given orally, or in writing or by signal or otherwise, shall, on conviction by a Security Force Court, be liable to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned.

(2) Any person subject to this Act who disobeys any lawful command given by his superior officer shall, on conviction by a Security Force Court,—

(*a*) if he commits such offence when on active duty, be liable to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned: and

(*b*) if he commits such offence when not on active duty, be liable to suffer imprisonment for a term which may extend to five years or such less punishment as is in this Act mentioned.

Insubordination and obstruction.

22. Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) being concerned in any quarrel, affray or disorder, refuses to obey any officer, though of inferior rank, who orders him into arrest, or uses criminal force to or assaults any such officer; or

(*b*) uses criminal force to, or assaults any person, whether subject to this Act or not, in whose custody he is lawfully placed, and whether he is or is not his superior officer; or

(*c*) resists an escort whose duty it is to apprehend him or to have him in charge; or

(*d*) breaks out of barracks, camp or quarters; or

(*e*) neglects to obey any general, local or other order; or

(*f*) impedes the Force Police referred to in section 63 or any person lawfully acting on his behalf, or when called upon, refuses to assist in the execution of his duty a Force Police or any person lawfully acting on his behalf,

shall, on conviction by a Security Force Court, be liable to suffer imprisonment for a term which may extend, in the case of the offences specified in clauses (*d*) and (*e*), to two years, and in the case of the offences specified in the other clauses, to ten years, or in either case such less punishment as is in this Act mentioned.

False answers on enrolment.

23. Any person having become subject to this Act who is discovered to have made at the time of enrolment a wilfully false answer to any question set forth in the prescribed form of enrolment which has been put to him by the enrolling officer before

whom he appears for the purpose of being enroled, shall, on conviction by a Security Force Court, be liable to suffer imprisonment for a term which may extend to five years or such less punishment as is in this Act mentioned.

Certain forms of disgraceful conduct.

24. Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) is guilty of any disgraceful conduct of a cruel, indecent or unnatural kind; or

(*b*) malingers, or feigns, or produces disease or infirmity in himself or intentionally delays his cure or aggravates his disease or infirmity; or

(c) with intent to render himself or any other person unfit for service, voluntarily causes hurt to himself or that person,

shall, on conviction by a Security Force Court, be liable, if he has imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

Ill-treating a subordinate.

25. Any officer, subordinate officer or under-officer, who uses criminal force to or otherwise ill-treats any person subject to this Act, being his subordinate in rank or position, shall, on conviction by a Security Force Court, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

Intoxication.

26. Any person subject to this Act who is found in a state of intoxication, whether on duty or not, shall, on conviction by a Security Force Court, be liable to suffer imprisonment for a term which may extend to six months or such less punishment as is in this Act mentioned.

Permitting escape of person in custody.

27. Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) when in command of a guard, picket, patrol or post, releases without proper authority, whether wilfully or without reasonable excuse, any person committed to his charge, or refuses to receive any prisoner or person so committed; or

(*b*) wilfully or without reasonable excuse allows to escape any parson who is committed to his charge, or whom it is his duty to keep or guard,

shall, on conviction by a Security Force Court, be liable to suffer acted wilfully, to suffer imprisonment for a term which may extend to ten years or such less punishment as is in this Act men-

tioned; and if he has not acted wilfully, to suffer imprisonment for a term which may extend to two years or such less punishment as is in this Act mentioned. Irregularity in connection with arrest or confinement.

28. Any person subject to this Act who commits any of the following offences, that is to say,—

(a) unnecessarily detains a person in arrest or confinement without bringing him to trial, or fails to bring his case before the proper authority for investigation; or

(b) having committed a person to Force custody fails without reasonable cause to deliver at the time of such committal, or as soon as practicable, and in any case within forty-eight hours thereafter, to the officer or other person into whose custody the person arrested is committed, an account in writing signed by himself of the offence with which the person so committed is charged,

shall, on conviction by a Security Force Court, be liable to suffer imprisonment for a term which may extend to one year or such less punishment as is in this Act mentioned.

29. Any person subject to this Act who, being in lawful custody, escapes or attempts to escape, shall, on conviction by a Security Force Court, be liable to suffer imprisonment for a term which may extend to three years or such less punishment as is in this Act mentioned. Escape from custody.

30. Any person subject to this Act who commits any of the following offences, that is to say,— Offences in respect of property.

(a) commits theft of any property belonging to the Government, or to any Force mess, band or institution, or to any person subject to this Act; or

(b) dishonestly misappropriates or converts to his own use any such property; or

(c) commits criminal breach of trust in respect of any such property; or

(d) dishonestly receives or retains any such property in respect of which any of the offences under clauses (a), (b) and (c) has been committed, knowing or having reason to believe the commission of such offence; or

(e) wilfully destroys or injures any property of the Government entrusted to him; or

(f) does any other thing with intent of defraud, or to cause wrongful gain to one person or wrongful loss to another person,

shall, on conviction by a Security Force Court, be liable to suffer imprisonment for a term which may extend to ten years or such less punishment as is in this Act mentioned.

Extortion and corruption.

31. Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) commits extortion; or

(b) without proper authority exacts from any person money, provisions or service,

shall, on conviction by a Security Force Court, be liable to suffer imprisonment for a term which may extend to ten years or such less punishment as is in this Act mentioned.

Making away with equipment

32. Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) makes away with, or is concerned in making away with, any arms, ammunition, equipment, instruments, tools, clothing or any other thing being the property of the Government issued to him for his use or entrusted to him; or

(*b*) loses by neglect anything mentioned in clause (*a*); or

(*c*) sells, pawns, destroys or defaces any medal or decoration granted to him,

shall, on conviction by a Security Force Court, be liable to suffer imprisonment for a term which may extend, in the case of the offences specified in clause (*a*), to ten years, and in the case of the offences specified in the other clauses, to five years, or in either case such less punishment as is in this Act mentioned.

Injury to property.

33. Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) destroys or injures any property mentioned in clause (*a*) of section 32, or any property belonging to any Force mess, band or institution, or to any person subject to this Act; or

(*b*) commits any act which causes damage to, or destruction of, any property of the Government by fire; or

(*c*) kills, injures, makes away with, ill-treats or loses any animal entrusted to him,

shall, on conviction by a Security Force Court, be liable, if he has acted wilfully, to suffer imprisonment for a term which may extend

to ten years or such less punishment as is in this Act mentioned; and if he has acted without reasonable excuse, to suffer imprisonment for a term which may extend to five years or such less punishment as is in this Act mentioned.

False accusations.

34. Any person subject to this Act who commits any of the following offences, that is to say,—

(a) makes a false accusation against any person subject to this Act, knowing or having reason to believe such accusation to be false; or

(b) in making a complaint against any person subject to this Act makes any statement affecting the character of such person, knowing or having reason to believe such statement to be false, or knowingly and wilfully suppresses any material facts,

shall, on conviction by a Security Force Court, be liable to suffer imprisonment for a term which may extend to three years or such less punishment as is in this Act mentioned.

Falsifying official documents and false declarations.

35. Any person subject to this Act who commits any of the following offences, that is to say,—

(a) in any report, return, list, certificate, book or other document made or signed by him, or of the contents of which it is his duty to ascertain the accuracy, knowingly makes, or is privy to the making or, any false or fraudulent statement; or

(b) in any document of the description mentioned in clause (a) knowingly makes, or is privy to the making of, any omission, with intent to defraud; or

(c) knowingly and with intent to injure any person, or knowingly and with intent to defraud, suppresses, defaces, alters or makes away with any document which it is his duty to preserve or produce; or

(d) where it is his official duty to make a declaration respecting any matter, knowingly makes a false declaration; or

(e) obtains for himself, or for any other person, any pension, allowance or other advantage or privilege by a statement which is false, and which he either knows or believes to be false or does not believe to be true, or by making or using a false entry in any book or record, or by making any document containing a false statement, or by omitting to make a true entry or document containing a true statement,

shall, on conviction by a Security Force Court, be liable to suffer imprisonment for a term which may extend to ten years or such less punishment as is in this Act mentioned.

Signing in blank and failure to report.

36. Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) when signing any document relating to pay, arms, ammunition, equipment, clothing, supplies or stores, or any property of the Government fraudulently leaves in blank any material part for which his signature is a voucher; or

(*b*) refuses or by culpable neglect omits to make or send a report or return which it is his duty to make or send,

shall, on conviction by a Security Force Court, be liable to suffer imprisonment for a term which may extend to three years or such less punishment as is in this Act mentioned.

Offences relating to Security Force Court.

37. Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) being duly summoned or ordered to attend as a witness before a Security Force Court, wilfully or without reasonable excuse, makes default in attending; or

(*b*) refuses to take an oath or make an affirmation legally required by a Security Force Court to be taken or made; or

(*c*) refuses to produce or deliver any document in his power or control legally required by a Security Force Court to be produced or delivered by him; or

(*d*) refuses, when a witness, to answer any question which he is by law bound to answer; or

(*e*) is guilty of contempt of the Security Force Court by using insulting or threatening language, or by causing any interruption or disturbance in the proceedings of such court,

shall, on conviction by a Security Force Court, be liable to suffer imprisonment for a term which may extend to three years or such less punishment as is in this Act mentioned.

False evidence.

38. Any person subject to this Act who, having been duly sworn or affirmed before any Security Force Court or other court competent under this Act to administer an oath or affirmation, makes any statement which is false, and which he either knows or believes to be false or does not believe to be true, shall, on conviction by a Security Force Court, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

Unlawful detention of pay.

39. Any officer, subordinate officer or an under-officer who, having received the pay of a person subject to this Act unlawfully detains or refuses to pay the same when due, shall, on conviction by a Security Force Court, be liable to suffer imprisonment for a term which may

extend to five years or such less punishment as is in this Act mentioned.

Violation of good order and discipline.

40. Any person subject to this Act who is guilty of any act or omission which, though not specified in this Act, is prejudicial to good order and discipline of the Force shall, on conviction by a Security Force Court, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

Miscellaneous offences.

41. Any person subject to this Act who commits any of the following offences, that is to say,—

(*a*) being in command at any post or on the march, and receiving a complaint that any one under his command has beaten or otherwise maltreated or oppressed any person, or has disturbed any fair or market, or committed any riot or trespass, fails to have due reparation made to the injured person or to report the case to the proper authority; or

(*b*) by defiling any place of worship, or otherwise, intentionally insults the religion, or wounds the religious feelings of, any person; or

(*c*) attempts to commit suicide, and in such attempt does any act towards the commission of such offence; or

(*d*) being below the rank of subordinate officer, when off duty, appears without proper authority, in or about camp, or in or about, or when going to, or returning from, any town or bazaar, carrying a rifle, sword or other offensive weapon; or

(*e*) directly or indirectly accepts or obtains, or agrees to accept, or attempts to obtain, for himself or for any other person, any gratification as a motive or reward for procuring the enrolment of any person, or leave of absence, promotion or any other advantage or indulgence for any person in the service; or

(*f*) commits any offence against the property or person of any inhabitant of, or resident in, the country in which he is serving,

shall, on conviction by a Security Force Court, be liable to suffer imprisonment for a term which may extend to seven years or such less punishment as is in this Act mentioned.

Attempt.

42. Any person subject to this Act who attempts to commit any of the offences specified in sections 14 to 41 (both inclusive) and in such attempt does any act towards the commission of the offence

shall, on conviction by a Security Force Court, where no express provision is made by this Act for the punishment of such attempt, be liable,—

(*a*) if the offence attempted to be committed is punishable with death, to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned; and

(*b*) if the offence attempted to be committed is punishable with imprisonment, to suffer imprisonment for a term which may extend to one-half of the longest term provided for that offence or such less punishment as is in this Act mentioned.

Abetment of offences that have been committed.

43. Any person subject to this Act who abets the commission of any of the offences specified in sections 14 to 41 (both inclusive) shall, on conviction by a Security Force Court, if the Act abetted is committed in consequence of the abetment and no express provision is made by this Act for the punishment of such abetment, be liable to suffer the punishment provided for that offence or such less punishment as is in this Act mentioned.

Abetment of offences punishable with death and not committed.

44. Any person subject to this Act who abets the commission of any of the offences punishable with death under sections 14, 17 and sub-section (*1*) of section 18 shall, on conviction by a Security Force Court, if that offence be not committed in consequence of the abetment, and no express provision is made by this Act for the punishment of such abetment, be liable to suffer imprisonment for a term which may extend to fourteen years or such less punishment as is in this Act mentioned.

Abetment of offences punishable with imprisonment and not committed.

45. Any person subject to this Act who abets the commission of any of the offences specified in sections 14 to 41 (both inclusive) and punishable with imprisonment shall, on conviction by a Security Force Court, if that offence be not committed in consequence of the abetment, and no express provision is made by this Act for the punishment of such abetment, be liable to suffer imprisonment for a term which may extend to one-half of the longest term provided for that offence or such less punishment as is in this Act mentioned.

Civil offences.

46. Subject to the provisions of section 47, any person subject to this Act who at any place in, or beyond, India commits any civil offence shall be deemed to be guilty of an offence against this Act and, if charged therewith under this section shall be liable to be tried by a Security Force Court and, on conviction, be punishable as follows, that is to say,—

(*a*) if the offence is one which would be punishable under any law in force in India with death, he shall be liable to suffer

any punishment, assigned for the offence, by the aforesaid law and such less punishment as is in this Act mentioned; and

(*b*) in any other case, he shall be liable to suffer any punishment, assigned for the offence by the law in force in India, or imprisonment for a term which may extend to seven years, or such less punishment as is in this Act mentioned.

Civil offences not triable by a Security Force Court.

47. A person subject to this Act who commits an offence of murder or of culpable homicide not amounting to murder against, or of rape in relation to, a person not subject to this Act shall not be deemed to be guilty of an offence against this Act and shall not be tried by a Security Force Court, unless he commits any of the said offences,—

(*a*) while on active duty; or

(*b*) at any place outside India; or

(c) at any place specified by the Central Government by notification in this behalf.

CHAPTER IV

PUNISHMENTS

Punishments awardable by Security Force Courts.

48. (*1*) Punishments may be inflicted in respect of offences committed by persons subject to this Act and convicted by Security Force Courts according to the scale following, that is to say,—

(*a*) death;

(*b*) imprisonment which may be for the term of life or any other lesser term but excluding imprisonment for a term not exceeding three months in Force custody;

(c) dismissal from the service;

(*d*) imprisonment for a term not exceeding three months in Force custody;

(*e*) reduction to the ranks or to a lower rank or grade or place in the list of their rank in the case of an under-officer;

(*f*) forfeiture of seniority of rank and forfeiture of all or any part of the service for the purpose of promotion;

(*g*) forfeiture of service for the purpose of increased pay, pension or any other prescribed purpose;

(*h*) fine, in respect of civil offences;

(*i*) severe reprimand or reprimand except in the case of persons below the rank of an under-officer;

(*j*) forfeiture of pay and allowances for a period not exceeding three months for an offence committed on active duty;

(*k*) forfeiture in the case of person sentenced to dismissal from the service of all arrears of pay and allowances and other public money due to him at the time of such dismissal;

(*l*) stoppage of pay and allowances until any proved loss or damage occasioned by the offence for which he is convicted is made good.

(*2*) Each of the punishments specified in sub-section (*1*) shall be deemed to be inferior in degree to every punishment preceding it in the above scale.

Alternative punishments awardable by Security Force Courts.

49. Subject to the provisions of this Act, a Security Force Court may, on convicting a person subject to this Act of any of the offences specified in sections 14 to 45 (both inclusive) award either the particular punishment with which the offence is stated in the said sections to be punishable or, in lieu thereof, any one of the punishments lower in the scale set out in section 48 regard being had to the nature and degree of the offence.

Combination of punishments.

50. A sentence of a Security Force Court may award in addition to, or without any one other punishment, the punishment specified in clause (c) of sub-section (*1*) of section 48, and any one or more of the punishments specified in clauses (*e*) to (*l*) (both inclusive) of that sub-section.

Retention in the Force of a person convicted on active duty.

51. When on active duty any enrolled person has been sentenced by a Security Force Court to dismissal or to imprisonment whether combined with dismissal or not, the prescribed officer may direct that such person may be retained to serve in the ranks, and such service shall be reckoned as part of his term of imprisonment if any.

Punishments otherwise than by Security Force Courts.

52. Punishments may also be inflicted in respect of offences committed by persons subject to this Act without the intervention of a Security Force Court in the manner stated in sections 53 and 55.

Minor punishments.

53. Subject to the provisions of section 54, a Commandant or such other officer as is, with the consent of Central Government, specified by the Director-General may, in the prescribed manner, proceed against a person subject to this Act, otherwise than as an officer or a subordinate officer, who is charged with an offence under this Act and award such person, to the extent prescribed, one or more of the following punishments, that is to say,—

(*a*) imprisonment in Force custody up to twenty-eight days;

(*b*) detention up to twenty-eight days;

(*c*) confinement to the lines up to twenty-eight days;

(*d*) extra guards or duties;

(*e*) deprivation of any special position or special emoluments or any acting rank or reduction to a lower grade of pay;

(*f*) forfeiture of good service and good conduct pay;

(*g*) severe reprimand or reprimand;

(*h*) fine up to fourteen days' pay in any one month;

(*i*) deductions from his pay of any sum required to make good such compensation for any expense, loss, damage or destruction caused by him to the Central Government, or to any building or property as may be awarded by his Commandant.

Limit of punishments under section 53.

54. (*1*) In the case of an award of two or more of the punishments specified in clauses (*a*), (*b*), (c) and (*d*) of section 53, the punishments specified in clause (c) or clause (*d*) shall take effect only at the end of the punishment specified in clause (*a*) or clause (*b*).

(*2*) When two or more of the punishments specified in the said clauses (*a*), (*b*) and (*c*) are awarded to a person conjointly, or when already undergoing one or more of the said punishments, the whole extent of the punishments shall not exceed in the aggregate forty-two days.

(*3*) The punishments specified in the said clauses (*a*), (*b*) and (*c*) shall not be awarded to any person who is of the rank of an under-officer or was, at the time of committing the offence for which he is punished, of such rank.

(*4*) The punishment specified in clause (*g*) of section 53 shall not be awarded to any person below the rank of an under-officer.

Punishment of persons of and below the rank of subordinate officers by Deputy Inspectors-General and others.

55. (*1*) An officer not below the rank of the Deputy Inspector-General or such other officer as is, with the consent of the Central Government, specified by the Director-General may, in the prescribed manner, proceed against a person of or below the rank of a subordinate officer who is charged with an offence under this Act and award one or more of the following punishments, that is to say,—

(*a*) forfeiture of seniority, or in the case of any of them whose promotion depends upon the length of service forfeiture of service for the purpose of promotion for a period not exceeding twelve months, but subject to the right of the accused previous to the award to elect to be tried by a Security Force Court;

(*b*) severe reprimand or reprimand;

(c) stoppage of pay and allowances until any proved loss or damage occasioned by the offence of which he is convicted is made good.

(2) In every case in which punishment has been awarded under sub-section (1), certified true copies of the proceedings shall be forwarded, in the prescribed manner, by the officer awarding the punishment to the prescribed superior authority who may, if the punishment awarded appears to him to be illegal, unjust or excessive, cancel, vary or remit the punishment and make such other direction as may be appropriate in the circumstances of the case.

Collective fines.

56. (1) Whenever any weapon or part of a weapon, or ammunition, forming part of the equipment of a unit of the Force, is lost or stolen, an officer not below the rank of the Commandant of a battalion may, after making such enquiry as he thinks fit and subject to the rules, impose a collective fine upon the subordinate officers, under-officers and men of such unit, or upon so many of them as, in his judgment, should be held responsible for such loss or theft.

(2) Such fine shall be assessed as a percentage on the pay of the individuals on whom it falls.

CHAPTER V

ARREST AND PROCEEDINGS BEFORE TRIAL

Custody of offenders.

57. (1) Any person subject to this Act who is charged with an offence may be taken into Force custody, under the order of any superior officer.

(2) Notwithstanding anything contained in sub-section (1), an officer may order into Force custody any other officer, though such other officer may be of a higher rank, engaged in a quarrel, affray or disorder.

Duty of Commandant in regard to detention.

58. (1) It shall be the duty of every Commandant to take care that a person under his command when charged with an offence is not detained in custody for more than forty-eight hours after the committal of such person into custody is reported to him, without the charge being investigated, unless investigation within that period seems to him to be impracticable having regard to the public service.

(2) The case of every person being detained in custody beyond a period of forty-eight hours, and the reasons therefor, shall be reported by the Commandant to the Deputy Inspector-General under whom he is serving or such other officer to whom an application may be made to convene a Security Force Court for the trial of the person charged.

(3) In reckoning the period of forty-eight hours specified in sub-section (1), Sundays and other public holidays shall be excluded.

(4) Subject to the provisions of this Act, the Central Government may make rules providing for the manner in which and the period for which any person subject to this Act may be taken into and detained in Force custody, pending the trial by any competent authority for any offence committed by him.

Interval between committal and trial.

59. In every case where any such person as is mentioned in section 57 and as is not on active duty, remains in such custody for a longer period than eight days without a Security Force Court for his trial being convened, a special report giving reasons for the delay shall be made by his Commandant in the manner prescribed, and a similar report shall be forwarded at intervals of every eight days until a Security Force Court is convened or such person is released from custody.

Arrest by civil authorities.

60. Whenever any person subject to this Act, who is accused of an offence under this Act, is within the jurisdiction of any magistrate or police officer, such magistrate or police officer shall aid in the apprehension and delivery to Force custody of such person upon receipt of a written application to that effect signed by his Commandant or an officer authorised by the Commandant in that behalf.

Capture of deserters.

61. (1) Whenever any person subject to this Act deserts, the Commandant of the unit to which he belongs, shall give information of the desertion to such civil authorities as, in his opinion, may be able to afford assistance towards the capture of the deserter; and such authorities shall thereupon take steps for the apprehension of the said deserter in like manner as if he were a person for whose apprehension a warrant had been issued by a magistrate, and shall deliver the deserter, when apprehended, into Force custody.

(2) Any police officer may arrest without warrant any person reasonably believed to be subject to this Act, and to be a deserter or to be travelling without authority, and shall bring him without delay before the nearest magistrate, to be dealt with according to law.

Inquiry into absence without leave.

62. (1) When any person subject to this Act has been absent from duty without due authority for a period of thirty days, a court of inquiry shall, as soon as practicable, be appointed by such authority and in such manner as may be prescribed; and such court shall, on oath or affirmation administered in the prescribed manner, inquire respecting the absence of the person, and the deficiency, if any, in the property of the Government entrusted to his care, or

in any arms, ammunition, equipment, instruments, clothing or necessaries; and if satisfied of the fact of such absence without due authority or other sufficient cause, the court shall declare such absence and the period thereof and the said deficiency, if any, and the Commandant of the unit to which the person belongs shall make a record thereof in the prescribed manner.

(2) If the person declared absent does not afterwards surrender or is not apprehended, he shall for the purposes of this Act, be deemed to be a deserter.

Force police officers.

63. (1) The Director-General or any prescribed officer may appoint persons (in this Act referred to as Force police) for discharging the functions specified in sub-sections (2) and (3).

(2) The duties of a person appointed under sub-section (1), are to take charge of persons confined for any offence, to preserve good order and discipline and to prevent breaches of the same by persons serving in, or attached to, the Force.

(3) Notwithstanding anything contained in section 57, a person appointed under sub-section (1) may, at any time, arrest and detain for trial any person subject to this Act who commits, or is charged with, an offence, and may also carry into effect any punishment to be inflicted in pursuance of a sentence awarded by a Security Force Court or by an officer exercising authority under section 53 but shall not inflict any punishment on his own authority:

Provided that no officer shall be so arrested or detained otherwise than on the order of another officer.

CHAPTER VI

SECURITY FORCE COURTS

Kinds of Security Force Courts.

64. For the purposes of this Act there shall be three kinds of Security Force Courts, that is to say,—

(a) General Security Force Courts;

(b) Petty Security Force Courts; and

(c) Summary Security Force Courts.

Power to convene a General Security Force Court.

65. A General Security Force Court may be convened by the Central Government or the Director-General or by any officer empowered in this behalf by warrant of the Director-General.

Power to convene a petty Security Force Court.

66. A Petty Security Force Court may be convened by an officer having power to convene a General Security Force Court or by an officer empowered in this behalf by warrant of any such officer.

Contents of warrants issued under sections 65 and 66.

67. A warrant, issued under section 65 or section 66 may contain such restrictions, reservations or conditions as the officer issuing it may think fit.

Composition of General Security Force Court.

68. A General Security Force Court shall consist of not less than five officers, each of whom has held the post of Deputy Superintendent of Police for not less than three whole years and of whom not less than four are of a rank not below that of a confirmed Deputy Superintendent of Police.

Explanation.—For the purposes of this section and section 69 "Deputy Superintendent of Police" includes any post of a higher rank and any post declared by Central Government by notification to be an equivalent post as also any post higher in rank than the post so declared.

Composition of a Petty Security Force Court.

69. A Petty Security Force Court shall consist of not less than three officers each of whom has held the post of Deputy Superintendent of Police for not less than two whole years.

Summary Security Force Court.

70. (*1*) A Summary Security Force Court may be held by the Commandant of any unit of the Force and he alone shall constitute the Court.

(*2*) The proceedings shall be attended throughout by two other persons who shall be officers or subordinate officers or one of either, and who shall not as such, be sworn or affirmed.

Dissolution of a Security Force Court.

71. (*1*) If a Security Force Court after the commencement of a trial is reduced below the minimum number of officers required by this Act, it shall be dissolved.

(*2*) If, on account of the illness of the Law Officer or of the accused before the finding, it is impossible to continue the trial, a Security Force Court shall be dissolved.

(*3*) The officer who convened a Security Force Court may dissolve the same if it appears to him that the exigencies of the service or necessities of discipline render it impossible or inexpedient to continue the said Security Force Court.

(*4*) Where a Security Force Court is dissolved under this section, the accused may be tried again.

Powers of a General Security Force Court.

72. A General Security Force Court shall have the power to try any person subject to this Act for any offence punishable thereunder and to pass any sentence authorised thereby.

Powers of a Petty Security Force Court.

73. A Petty Security Force Court shall have power to try any person subject to this Act other than an officer or a subordinate officer for any offence made punishable thereunder and to pass any sentence authorised by this Act other than a sentence of death, or imprisonment for a term exceeding two years.

Powers of a Summary Security Force Court.

74. (*1*) Subject to the provisions of sub-section (*2*), a Summary Security Force Court may try any offence punishable under this Act.

(*2*) When there is no grave reason for immediate action and reference can without detriment to discipline be made to the officer empowered to convene a Petty Security Force Court for the trial of the alleged offender, an officer holding a Summary Security Force Court shall not try without such reference any offence punishable under any of the sections 14, 17 and 46 of this Act, or any offence against the officer holding the court.

(*3*) A Summary Security Force Court may try any person subject to this Act and under the command of the officer holding the court, except an officer, or a subordinate officer.

(*4*) A Summary Security Force Court may pass any sentence which may be passed under this Act, except the sentence of death or of imprisonment for a term exceeding the limit specified in sub-section (*5*).

(*5*) The limit referred to in sub-section (*4*) shall be,—

(*a*) one year, if the officer holding the Security Force Court has held either the post of Superintendent of Police or a post declared by the Central Government by notification to be equivalent thereto, for a period of not less than three years or holds a post of higher rank than either of the said posts; and

(*b*) three months, in any other case.

Prohibition of second trial.

75. (*1*) When any person subject to this Act has been acquitted or convicted of an offence by a Security Force Court or by a criminal court or has been dealt with under section 53 or under section 55, he shall not be liable to be tried again for the same offence by a Security Force Court or dealt with under the said sections.

(*2*) When any person, subject to this Act, has been acquitted or convicted of an offence by a Security Force Court or has been dealt with under section 53 or section 55, he shall not be liable to be tried again by a criminal court for the same offence or on the same facts.

Period of limitation for trial for an offence of desertion in certain cases.

76. No trial for an offence of desertion, other than desertion on active duty, shall be commenced if the person in question, not being an officer, has subsequently to the commission of the offence, served continuously in an exemplary manner for not less than three years with any unit of the Force.

Trial, etc., of offender who ceases to be subject to this Act.

77. (*1*) Where an offence under this Act had been committed by any person while subject to this Act, and he has ceased to be so subject, he may be taken into and kept in Force custody and tried and punished for such offence as if he continued to be so subject.

(*2*) No such person shall be tried for an offence, unless his trial commences within six months after he had ceased to be subject to this Act:

Provided that nothing contained in this sub-section shall apply to the trial of any such person for an offence of desertion or for any of the offences mentioned in section 17 or shall affect the jurisdiction of a criminal court to try any offence triable by such court as well as by a Security Force Court.

Application of Act during term of sentence.

78. (*1*) When a person subject to this Act is sentenced by a Security Force Court to imprisonment, this Act shall apply to him during the term of his sentence, though he is dismissed from the Force, or has otherwise ceased to be subject to this Act, and he may be kept, removed, imprisoned and punished as if he continued to be subject to this Act.

(*2*) When a person subject to this Act is sentenced by a Security Force Court to death, this Act shall apply to him till the sentence is carried out.

Place of trial.

79. Any person subject to this Act who commits any offence against it may be tried and punished for such offence in any place whatever.

Choice between criminal court and Security Force Court.

80. When a criminal court and a Security Force Court have each jurisdiction in respect of an offence, it shall be in the discretion of the Director-General, or the Inspector-General or the Deputy Inspector-General within whose command the accused person is serving or such other officer as may be prescribed to decide before which court the proceedings shall be instituted, and, if that officer decides that they shall be instituted before a Security Force Court, to direct that the accused person shall be detained in Force custody.

Power of criminal court to require delivery of offender.

81. (*1*) When a criminal court having jurisdiction is of opinion that proceedings shall be instituted before itself in respect of any alleged offence, it may, by written notice, require the officer referred to in section 80 at his option, either to deliver over the offender to the nearest magistrate to be proceeded against according to law, or to postpone proceedings, pending a reference to the Central Government.

(*2*) In every such case the said officer shall either deliver over the offender in compliance with the requisition, or shall forthwith refer the question as to the court before which the proceedings are to be instituted, for the determination of the Central Government whose order upon such reference shall be final.

CHAPTER VII

PROCEDURE OF SECURITY FORCE COURTS

Presiding officer.

82. At every General Security Force Court or Petty Security Force Court, the senior member shall be the presiding officer

Law Officers

83. Every General Security Force Court shall, and every Petty Security Force Court may, be attended by a Law Officer, or if no such officer is available, an officer approved by the Chief Law Officer, or a Law Officer.

Challenges.

84. (*1*) At all trials by a General Security Force Court or by a Petty Security Force Court, as soon as the court is assembled, the names of the presiding officer and members shall be read over to the accused, who shall thereupon be asked whether he objects to being tried by any officer sitting on the court.

(2) If the accused objects to such officer, his objection and also the reply thereto of the officer objected to shall be heard and recorded, and the remaining officers of the court shall, in the absence of the challenged officer decide on the objection.

(3) If the objection is allowed by one-half or more of the votes of the officers entitled to vote, the objection shall be allowed, and the member objected to shall retire, and his vacancy may be filled in the prescribed manner, by another officer subject to the same right of the accused to object.

(4) When no challenge is made, or when a challenge has been made and disallowed, or the place of every officer successfully challenged has been filled by another officer to whom no objection is made or allowed, the court shall proceed with the trial.

Oaths of member, Law Officer and witness.

85. (1) An oath or affirmation in the prescribed manner shall be administered to every member of every Security Force Court and to the Law Officer or as the case may be the officer approved under section 83, before the commencement of the trial.

(2) Every person giving evidence before a Security Force Court shall be examined after being duly sworn or affirmed in the prescribed form.

(3) The provisions of sub-section (2) shall not apply where the witness is a child under twelve years of age and the Security Force Court is of opinion that though the witness understands the duty of speaking the truth, he does not understand the nature of an oath or affirmation.

Voting by members.

86. (1) Subject to the provisions of sub-sections (2) and (3), every decision of a Security Force Court shall be passed by an absolute majority of votes; and where there is an equality of votes on either the finding or the sentence, the decision shall be in favour of the accused.

(2) No sentence of death shall be passed by a General Security Force Court without the concurrence of at least two-thirds of the members of the court.

(3) In matters, other than a challenge or the finding or sentence, the presiding officer shall have a casting vote.

General rule as to evidence.

87. The Indian Evidence Act, 1872, shall, subject to the provisions of this Act, apply to all proceedings before a Security Force Court. 1 of 1872

Judicial notice.

88. A Security Force Court may take judicial notice of any matter within the general knowledge of the members as officers of the Force.

Summoning witnesses.

89. (1) The convening officer, the presiding officer of a Security Force Court, the Law Officer or, as the case may be, the officer approved under section 83 or the Commandant of the accused person may, by summons under his hand, require the attendance, at a time and place to be mentioned in the summons, of any person either to give evidence or to produce any document or other thing

(2) In the case of a witness who is subject to this Act, the summons shall be sent to his Commandant and such officer shall serve it upon him accordingly.

(3) In the case of any other witness, the summons shall be sent to the magistrate within whose jurisdiction he may be, or resides, and such magistrate shall give effect to the summons as if the witness were required in the court of such a magistrate.

(4) When a witness is required to produce any particular document or other thing in his possession or power, the summons shall describe it with reasonable precision.

Documents exempted from production.

90. (1) Nothing in section 89 shall be deemed to affect the operation of sections 123 and 124 of the Indian Evidence Act, 1872 or to apply to any letter, postcard, telegram or other document in the custody of the postal or telegraph authorities. 1 of 1872

(2) If any document in such custody is, in the opinion of any District Magistrate, Chief Presidency Magistrate, High Court or Court of Sessions, wanted for the purpose of any Security Force Court, such magistrate, or Court may require the postal or telegraph authorities, as the case may be, to deliver such document to such person as such magistrate, or Court may direct.

(3) If any such document is, in the opinion of any other magistrate or of any Commissioner of Police or District Superintendent of Police, wanted for any such purpose, he may require the postal or telegraph authorities, as the case may be, to cause such search to be made for,

and to detain such document pending the orders of any such District Magistrate, Chief Presidency Magistrate or High Court or Court of Sessions.

Commissions for examination of witnesses.

91. (*1*) Whenever, in the course of a trial by a Security Force Court, it appears to the court that the examination of a witness is necessary for the ends of justice, and that the attendance of such witness cannot be procured without an amount of delay, expense or inconvenience which, in the circumstances of the case, would be unreasonable, such court may address the Chief Law Officer in order that a commission to take the evidence of such witness may be issued.

(*2*) The Chief Law Officer may then, if he thinks necessary, issue a commission to any district magistrate or magistrate of the first class, within the local limits of whose jurisdiction such witness resides, to take the evidence of such witness.

(*3*) The magistrate or officer to whom the commission is issued, or, if he is the District Magistrate, he or such Magistrate of the first class as he appoints in this behalf, shall proceed to the place where the witness is, or shall summon the witness before him and shall take down his evidence in the same manner, and may for this purpose exercise the same powers, as in the trials of warrant-cases under the Code of Criminal Procedure, 1898.

5 of 1898.

(*4*) When the witness resides in a tribal area or in any place outside India, the commission may be issued in the manner specified in Chapter XL of the Code of Criminal Procedure, 1898.

5 of 1898.

Examination of witness or commission

92. (*1*) The prosecutor and the accused person in any case in which a commission is issued under section 91 may respectively forward any interrogatories in writing which the court may think relevant to the issue, and the Magistrate or officer executing the commission shall examine the witness upon such interrogatories.

(*2*) The prosecutor and the accused person may appear before such Magistrate or officer by counsel or, except in the case of an accused person in custody, in person, and may examine, cross-examine and re-examine, as the case may be, the said witness.

(*3*) After a commission issued under section 91 has been duly executed, it shall be returned, together with the deposition of the witness examined thereunder to the Chief Law Officer.

(*4*) On receipt of a Commission, and deposition returned under sub-section (*3*) , the Chief Law Officer shall forward the same to the court at whose instance the commission was issued or, if such court has been dissolved, to any other court convened for the trial of the

accused person; and the commission, the return thereto and the deposition shall be open to inspection by the prosecutor and the accused person, and may, subject to all just exceptions, be read in evidence in the case by either the prosecutor or the accused, and shall form part of the proceedings of the court.

(5) In every case in which a commission is issued under section 91, the trial may be adjourned for specified time reasonably sufficient for the execution and return of the commission.

Conviction of offence not charged.

93. (1) A person charged before a Security Force Court with desertion may be found guilty of attempting to desert or of being absent without leave.

(2) A person charged before a Security Force Court with attempting to desert may be found guilty of being absent without leave.

(3) A person charged before a Security Force Court with using criminal force may be found guilty of assault.

(4) A person charged before a Security Force Court with using threatening language may be found guilty of using insubordinate language.

(5) A person charged before a Security Force Court with any one of the offences specified in clauses (*a*), (*b*), (*c*) and (*d*) of section 30 may be found guilty of any other of these offences with which he might have been charged.

(6) A person charged before a Security Force Court with an offence punishable under section 46 may be found guilty of any other offence of which he might have been found guilty, if the provisions of the Code of Criminal Procedure, 1898, were applicable. 5 of 1898.

(7) A person charged before a Security Force Court with any offence under this Act may, on failure of proof of an offence having been committed in circumstances involving a more severe punishment, be found guilty of the same offence as having been committed in circumstances involving a less severe punishment.

(8) A person charged before a Security Force Court with any offence under this Act may be found guilty of having attempted or abetted the commission of that offence, although the attempt or abetment is not separately charged.

Presumption as to signatures.

94. In any proceeding under this Act, any application, certificate, warrant, reply or other document purporting to be signed by an officer in the service of the Government shall, on production, be presumed to have been duly signed by the person by whom and in the character in which it purports to have been signed, until the contrary is shown.

Enrolment paper.

95. (*1*) Any enrolment paper purporting to be signed by an enrolling officer shall, in proceedings under this Act, be evidence of the person enrolled having given the answers to questions which he is therein represented as having given.

(*2*) The enrolment of such person may be proved by the production of the original or a copy of his enrolment paper purporting to be certified to be a true copy by the officer having the custody of the enrolment paper.

Presumption as to certain documents.

96. (*1*) A letter, return or other document respecting the service of any person in, or the dismissal or discharge of any person from, any unit of the Force, or respecting the circumstances of any person not having served in, or belonged to, any unit of the Force, if purporting to be signed by or on behalf of the Central Government or the Director-General, or by any prescribed officer, shall be evidence of the facts stated in such letter, return or other document.

(*2*) A Border Security Force List or Gazette purporting to be published by authority shall be evidence of the status and rank of the officers, subordinate officers therein mentioned, and of any appointment held by them and of the battalion, unit, or branch of the Force to which they belong.

(*3*) Where a record is made in any battalion book in pursuance of this Act or of any rules made thereunder or otherwise in the discharge of official duties, and purports to be signed by the Commandant or by the officer whose duty it is to make such record, such record shall be evidence of the facts therein stated.

(*4*) A copy of any record in any battalion book purporting to be certified to be a true copy by the officer having custody of such book shall be evidence of such record.

(*5*) Where any person subject to this Act is being tried on a charge of desertion or of absence without leave, and such person has surrendered himself into the custody of any officer or other person subject to this Act, or any unit of the Force, or has been apprehended by such officer or person, a certificate purporting to be signed by such officer, or by the Commandant of the unit to which such person belongs, as the case may be, and stating the fact, date and place of such surrender or apprehension, and the manner in which he was dressed, shall be evidence of the matters so stated.

(*6*) Where any person subject to this Act is being tried on a charge of desertion or of absence without leave and such person has surrendered himself into the custody of, or has been apprehended by, a police officer not below the rank of an officer in charge of a

police station, a certificate purporting to be signed by such police officer and stating the fact, date and place of such surrender or apprehension and the manner in which he was dressed shall be evidence of the matters so stated.

(7) Any document purporting to be a report under the hand of any Chemical Examiner or Assistant Chemical Examiner to Government upon any matter or thing duly submitted to him for examination or analysis and report, may be used as evidence in any proceeding under this Act.

Reference by accused to Government Officer.

97. (1) If at any trial for desertion or absence without leave, overstaying leave or not rejoining when warned for service, the accused person states in his defence any sufficient or reasonable excuse for his unauthorised absence, and refers in support thereof to any officer in the service of the Government, or if it appears that any such officer is likely to prove or disprove the said statement in the defence, the court shall address such officer and adjourn the proceedings until his reply is received.

(2) The written reply of any officer so referred to shall, if signed by him, be received in evidence and have the same effect an if made on oath before the court.

(3) If the court is dissolved before the receipt of such reply or if the court omits to comply with the provisions of this section, the convening officer may, at his discretion, annul the proceedings and order a fresh trial.

Evidence of previous convictions and general character.

98. (1) When any person subject to this Act has been convicted by a Security Force Court of any offence, such Security Force Court may inquire into, and receive, and record evidence of any previous convictions of such person, either by a Security Force Court or by a criminal court, or any previous award of punishment under section 53 or 55, and may further inquire into and record the general character of such person and such other matters as may be prescribed.

(2) Evidence received under this section may be either oral, or in the shape of entries in, or certified extracts from, books of Security Force Courts or other official records; and it shall not be necessary to give notice before trial to the person tried that evidence as to his previous convictions or character will be received.

(3) At a Summary Security Force Court, the officer holding the trial may, if he thinks fit, record any previous convictions against the offender, his general character, and such other matters as may

be prescribed, as of his own knowledge, instead of requiring them to be proved under the foregoing provisions of this section.

Lunacy of accused.

99. (*1*) Whenever, in the course of a trial by a Security Force Court, it appears to the court that the person charged is by reason of unsoundness of mind incapable of making his defence, or that he committed the act alleged but was by reason of unsoundness of mind incapable of knowing the nature of the act or knowing that it was wrong or contrary to law, the court shall record a finding accordingly.

(*2*) The presiding officer of the court, or, in the case of a Summary Security Force Court, the officer holding the trial, shall forthwith report the case to the confirming officer, or to the authority empowered to deal with its finding under section 115, as the case may be.

(*3*) The confirming officer to whom the case is reported under sub-section (*2*) may, if he does not confirm the finding, take steps to have the accused person tried by the same or another Security Force Court for the offence with which he was charged.

(*4*) The authority to whom the finding of a Summary Security Force Court is reported under sub-section (*2*), and a confirming officer confirming the finding in any case so reported to him shall order the accused person to be kept in custody in the prescribed manner and shall report the case for the orders of the Central Government.

(*5*) On receipt of a report under sub-section (*4*), the Central Government may order the accused person to be detained in a lunatic asylum or other suitable place of safe custody.

Subsequent fitness of lunatic accused for trial.

100. Where any accused person, having been found by reason of unsoundness of mind to be incapable of making his defence, is in custody or under detention under section 99, any officer prescribed in this behalf, may—

(*a*) if such person is in custody under sub-section (*4*) of section 99, on the report of a medical officer that he is capable of making his defence, or

(*b*) if such person is detained in a jail under sub-section (*5*) of section 99, on a certificate of the Inspector General of Prisons, and if such person is detained in a lunatic asylum under the said sub-section, on a certificate of any two or more of the visitors of such asylum and if he is detained in any other place under that sub-section, on a certificate of the prescribed autho-

rity, that he is capable of making his defence, take steps to have such person tried by the same or another Security Force Court for the offence with which he was originally charged or, if the offence is a civil offence, by a criminal court.

Transmission to Central Government of orders under section 100.

101. A copy of every order made by an officer under section 100 for the trial of the accused shall forthwith be sent to the Central Government.

Release of lunatic accused.

102. Where any person is in custody under sub-section (4) of section 99 or under detention under sub-section (5) of that section,—

(*a*) if such person is in custody under the said sub-section (4), on the report of a medical officer, or

(*b*) if such person is detained under the said sub-section (5), on a certificate from any of the authorities mentioned in clause (*b*) of section 100 that in the judgment of such officer or authority such person may be released without danger of his doing injury to himself or to any other person,

the Central Government may order that such person be released or detained in custody, or transferred to a public lunatic asylum if he has not already been sent to such an asylum.

Delivery of lunatic accused to relatives.

103. Where any relative or friend of any person who is in custody under sub-section (4) of section 99 or under detention under sub-section (5) of that section desires that he should be delivered to his care and custody, the Central Government may, upon application by such relative or friend and, on his giving security to the satisfaction of that Government that the person delivered shall be properly taken care of, and, prevented from doing injury to himself or to any other person, and be produced for the inspection of such officer, and at such times and places, as the Central Government may direct, order such person to be delivered to such relative or friend.

Order for custody and disposal of property pending trial.

104. When any property regarding which any offence appears to have been committed, or which appears to have been used for the commission of any offence, is produced before a Security Force Court during a trial, the court may make such order as it thinks fit for the proper custody of such property pending the conclusion of the trial, and if the property is subject to speedy or natural decay may, after recording such evidence as it thinks necessary, order it to be sold or otherwise disposed of.

Order for disposal of property regarding which offence is committed

105. (*1*) After the conclusion of a trial before any Security Force Court, the court or the officer confirming the finding or sentence of such Security Force Court, or any authority superior to such officer, or, in the case of a Summary Security Force Court whose finding or sentence does not require confirmation, an officer not below the rank of Deputy Inspector-General within whose command the trial was held, may make such order as it or he thinks fit for the disposal by destruction, confiscation, delivery to any person claiming to be entitled to possession thereof, or otherwise, of any property or document produced before the court or in its custody, or regarding which any offence appears to have been committed or which has been used for the commission of any offence.

(*2*) Where any order has been made under sub-section (*1*) in respect of property regarding which an offence appears to have been committed, a copy of such order signed and certified by the authority making the same may, whether the trial was held within India or not, be sent to a magistrate within whose jurisdiction such property for the time being is situated, and such magistrate shall thereupon cause the order to be carried into effect as if it were an order passed by him under the provisions of the Code of Criminal Procedure, 1898.

5 of 1898

(*3*) In this section, the term "property" includes, in the case of property regarding which an offence appears to have been committed, not only such property as has been originally in the possession or under the control of any person, but also any property into or for which the same may have been converted or exchanged, and anything acquired by such conversion or exchange whether immediately or otherwise.

45 of 1860

Powers of Security Force Court in relation to proceedings under this Act.

106. Any trial by a Security Force Court under the provisions of this Act shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code and the Security Force Court shall be deemed to be a court within the meaning of sections 480 and 482 of the Code of Criminal Procedure, 1898.

5 of 1898

CHAPTER VIII

CONFIRMATION AND REVISION

Finding and sentence not valid ,unless confirmed.

107. No finding or sentence of a General Security Force Court or a Petty Security Force Court shall be valid except so far as it may be confirmed as provided by this Act.

Power to confirm finding and, sentence of General Security Force Court.

108. The findings and sentences of General Security Force Courts may be confirmed by the Central Government or by any officer empowered in this behalf by warrant of the Central Government.

Power to confirm finding and sentence of Petty Security Force Court.

109. The findings and sentences of Petty Security Force Courts may be confirmed by an officer having power to convene a General Security Force Court or by any officer empowered in this behalf by warrant of such officer.

Limitation of powers of confirming authority.

110. A warrant issued under section 108 or section 109 may contain such restrictions, reservations or conditions as the authority issuing it may think fit.

Power of confirming authority to mitigate, remit or commute sentences.

111. (*1*) Subject to such restrictions, reservations or conditions, as may be contained in any warrant issued under section 108 or section 109, a confirming authority may, when confirming the sentence of a Security Force Court, mitigate or remit the punishment thereby awarded, or commute that punishment for any punishment or punishments lower in the scale laid down in section 48.

Confirming of findings and sentences on board a ship.

112. When any person subject to this Act is tried and sentenced by a Security Force Court while on board a ship, the finding and sentence so far as not confirmed and executed on board the ship, may be confirmed and executed in like manner as if such person had been tried at the port of disembarkation.

Revision of finding or sentence.

113. (*1*) Any finding or sentence of a Security Force Court which requires confirmation may be once revised by order of the confirming authority and on such revision, the court, if so directed by the confirming authority, may take additional evidence.

(*2*) The court, on revision, shall consist of the same officers as were present when the original decision was passed, unless any of those officers are unavoidably absent.

(*3*) In case of such unavoidable absence the cause thereof shall be duly certified in the proceedings, and the court shall proceed with the revision, provided that, if a General Security Force Court, it still consists of five officers, or, if a Petty Security Force Court, of three officers.

Finding and sentence of a Summary Security Force Court.

114. (*1*) Save as otherwise provided in sub-section (*2*), the finding and sentence of a Summary Security Force Court shall not require to be confirmed, but may be carried out forthwith.

(*2*) If the officer holding the trial is of the rank of Superintendent of Police or of a rank declared under clause (*a*) of sub-section (*5*) of section 74 as equivalent thereto or of a lower rank and has held such rank for less than five years, he shall not, except on active duty, carry into effect any sentence, until it has received the approval of an officer not below the rank of Deputy Inspector-General.

Transmission of proceedings of Summary Security Force Courts.

115. The proceedings of every Summary Security Force Court shall, without delay, be forwarded to the officer not below the rank of Deputy Inspector-General within whose command the trial was held, or to the prescribed officer, and such officer, or the Director-General or any officer empowered by him in this behalf may, for reasons based on the merits of the case, but not on merely technical grounds, set aside the proceedings, or reduce the sentence to any other sentence which the court might have passed.

Alteration of finding or sentence in certain cases.

116. (*1*) Where a finding of guilty by a Security Force Court, which has been confirmed or which does not require confirmation, is found for any reason to be invalid or cannot be supported by the evidence, the authority which would have had power under section 128 to commute the punishment awarded by the sentence, if the finding had been valid may substitute a new finding and pass a sentence for the offence specified or involved in such finding:

Provided that no such substitution shall be made unless such finding could have been validly made by the Security Force Court on the charge and unless it appears that the Security Force Court must have been satisfied of the facts establishing the said offence.

(*2*) Where a sentence passed by a Security Force Court which has been confirmed, or which does not require confirmation, not being a sentence passed in pursuance of a new finding substituted under sub-section (*1*), is found for any reason to be invalid, the authority referred to in sub-section (*1*) may pass a valid sentence.

(*3*) The punishment awarded by a sentence passed under sub-section (*1*) or sub-section (*2*) shall not be higher in the scale of punishments than, or in excess of, the punishment awarded by, the sentence for which a new sentence is substituted under this section.

(*4*) Any finding substituted, or any sentence passed, under this section shall, for the purposes of this Act and the rules, have effect as if it were a finding or sentence, as the case may be, of a Security Force Court

Remedy against order, finding or sentence of Security Force Court.

117. (*1*) Any person subject to this Act who considers himself aggrieved by any order passed by any Security Force Court may present a petition to the officer or authority empowered to confirm any finding or sentence of such Security Force Court, and the confirming authority may take such steps as may be considered necessary to satisfy itself as to the correctness, legality or propriety of the order passed or as to the regularity of any proceeding to which the order relates.

(*2*) Any person subject to this Act who considers himself aggrieved by a finding or sentence of any Security Force Court which has been confirmed, may present a petition to the Central Government, the Director-General, or any prescribed officer superior in command to the one who confirmed such finding or sentence, and the Central Government, the Director-General, or the prescribed officer, as the case may be, may pass such order thereon as it or he thinks fit

Annulment of proceedings.

118. The Central Government, the Director-General, or any prescribed officer may annul the proceedings of any Security Force Court on the ground that they are illegal or unjust.

CHAPTER IX

EXECUTION OF SENTENCE, PARDONS, REMISSIONS, ETC.

Form of sentence of death.

119. In awarding a sentence of death, a Security Force Court shall, in its discretion direct that the offender shall suffer death by being hanged by the neck until he be dead, or shall suffer death by being shot to death.

Commencement of sentence of imprisonment.

120. Whenever any person is sentenced by a Security Force Court under this Act to imprisonment, the term of his sentence shall, whether it has been revised or not, be reckoned to commence on the day on which the original proceedings were signed by the presiding officer, or in the case of a Summary Security Force Court, by the court.

Execution of sentence of imprisonment.

121. (*1*) Whenever any sentence of imprisonment is passed under this Act by a Security Force Court or whenever any sentence of death is commuted to imprisonment, the confirming officer or in case of a Summary Security Force Court the officer holding the court or such other officer as may be prescribed shall, save as otherwise provided in sub-sections (*3*) and (*4*) direct that the sentence shall be carried out by confinement in a civil prison.

(*2*) When a direction has been made under sub-section (*1*) the Commandant of the person under sentence or such other officer as may be prescribed shall forward a warrant in the prescribed form to the officer in charge of the prison in which such person is to be confined and shall arrange for his despatch to such prison with the warrant.

(*3*) In the case of a sentence of imprisonment for a period not exceeding three months and passed under this Act by a Security Force Court, the appropriate officer under sub-section (*1*) may direct that the sentence shall be carried out by confinement in Force custody instead of in a civil prison.

(*4*) On active duty, a sentence of imprisonment may be carried out by confinement in such place as the Deputy Inspector-General within whose command the person sentenced is serving or any prescribed officer, may from time to time appoint.

Temporary custody of offender.

122. Where a sentence of imprisonment is directed to be undergone in a civil prison the offender may be kept in Force custody or in any other fit place, till such time as it is possible to send him to a civil prison.

Execution of sentence of imprisonment in special cases.

123. Whenever, in the opinion of an officer not below the rank of Deputy Inspector-General within whose command the trial is held, any sentence or portion of a sentence of imprisonment cannot for special reasons, conveniently be carried out in Force custody in accordance with the provisions of section 121, such officer may direct that such sentence or portion of sentence shall be carried out by confinement in any civil prison or other fit place.

Conveyance of prisoner from place to place.

124. A person under sentence of imprisonment may during his conveyance from place to place, or when on board ship, aircraft, or otherwise, be subjected to such restraint as is necessary for his safe conduct and removal.

Communication of certain orders to prison officers.

125. Whenever an order is duly made under this Act setting aside or varying any sentence, order or warrant under which any person is confined in a civil prison, a warrant in accordance with such order shall be forwarded by the officer making the order or his staff officer or such other person as may be prescribed, to the officer in charge of the prison in which such person is confined.

Execution of sentence of fine.

126. When a sentence of fine is imposed by a Security Force Court under section 46, a copy of such sentence signed and certified by the confirming officer, or where no confirmation is required, by the officer holding the trial may be sent to any magistrate in India, and such magistrate shall thereupon cause the fine to be recovered in accordance with the provisions of the Code of Criminal Procedure, 1898, as if it were a sentence of fine imposed by such magistrate. 5 of 1898.

Informality or error in the order or warrant.

127. Whenever any person is sentenced to imprisonment under this Act, and is undergoing the sentence in any place or manner in which he might be confined under a lawful order or warrant in pursuance of this Act, the confinement of such person shall not be deemed to be illegal only by reason of informality or error in, or as respects, the order, warrant or other document, or the authority by which, or in pursuance whereof such person was brought into, or, is confined in any such place, and any such order, warrant or document may be amended accordingly.

Pardon and remission.

128. When any person subject to this Act has been convicted by a Security Force Court of any offence, the Central Government or the Director-General or, in the case of a sentence, which he could have confirmed or which did not reqiure confirmation, an officer not below the rank of Deputy Inspector-General within whose command such person at the time of conviction was serving, or the prescribed officer may,—

(*a*) either with or without conditions which the person sentenced accepts, pardon the person or remit the whole or any part of the punishment awarded; or

(*b*) mitigate the punishment awarded; or

(c) commute such punishment for any less punishment or punishments mentioned in this Act;

(*d*) either with or without conditions which the person sentenced accepts, release the person on parole.

Cancellation of conditional pardon, release on parole or remission.

129. (*1*) If any condition on which a person has been pardoned or released on parole or a punishment has been remitted is, in the opinion of the authority which granted the pardon, release or remission, not fulfilled, such authority may cancel the pardon release or remission, and thereupon the sentence of the court shall be carried into effect as if such pardon, release or remission had not been granted.

(*2*) A person whose sentence of imprisonment is carried into effect under the provisions of sub-section (*1*) shall undergo only the unexpired portion of his sentence.

Suspension of sentence of imprisonment.

130. (*1*) Where a person subject to this Act is sentenced by a Security Force Court to imprisonment, the Central Government the Director-General or any officer empowered to convene a General Security Force Court may suspend the sentence whether or not the offender has already been committed to prison or to Force custody.

(*2*) The authority or officer specified in sub-section (*1*) may, in the case of an offender so sentenced direct that until the orders of such authority or officer have been obtained the offender shall not be committed to prison or to Force custody.

(*3*) The powers conferred by sub-sections (*1*) and (*2*) may be exercised in the case of any such sentence which has been confirmed, reduced or commuted.

Orders pending suspension.

131. (*1*) Where the sentence referred to in section 130 is imposed by a Security Force Court other than a Summary Security Force Court, the confirming officer may, when confirming the sentence, direct that the offender be not committed to prison or to Force custody until the orders of the authority or officer specified in section 130, have been obtained.

(*2*) Where a sentence of imprisonment is imposed by a Summary Security Force Court, the officer holding the trial or the officer authorised to approve of the sentence under sub-section (*2*) of section 114 may make the direction referred to in sub-section (*1*).

Release on suspension.

132. Where a sentence is suspended under section 130, the offender shall forthwith be released from custody.

Computation of period of suspension.

133. Any period during which the sentence is under suspension shall be reckoned as part of the term of such sentence.

Order after suspension.

134. The authority or officer specified in section 130 may, at any time while a sentence is suspended, order—

(*a*) that the offender be committed to undergo the unexpired portion of the sentence; or

(*b*) that the sentence be remitted.

Reconsideration of case after suspension.

135. (*1*) Where a sentence has been suspended, the case may at any time, and shall at intervals of not more than four months, be reconsidered by the authority or officer specified in section 130, or by any officer not below the rank of a Deputy Inspector-General duly authorised by the authority or officer specified in section 130.

(2) Where on such reconsideration by the officer so authorised it appears to him that the conduct of offender since his conviction has been such as to justify a remission of the sentence, he shall refer the matter to the authority or officer specified in section 130.

Fresh sentence after suspension.

136. Where an offender, while a sentence on him is suspended under this Act, is sentenced for any other offence, then—

(*a*) if the further sentence is also suspended under this Act, the two sentences shall run concurrently;

(*b*) if the further sentence is for a period of three months or more and is not suspended under this Act, the offender shall also be committed to prison or Force custody for the unexpired portion of the previous sentence, but both sentences shall run concurrently; and

(c) if the further sentence is for a period of less than three months and is not suspended under this Act, the offender shall be so committed on that sentence only, and the previous sentence shall, subject to any order which may be passed under section 134 or section 135 continue to be suspended.

Scope of power of suspension.

137. The powers conferred by sections 130 and 134 shall be in addition to, and not in derogation of, the power of mitigation, remission and commutation.

Effect of suspension and remission on dismissal.

138. (*1*) Where in addition to any other sentence the punishment of dismissal has been awarded by a Security Force Court, and such other sentence is suspended under section 130, then, such dismissal shall not take effect until so ordered by the authority or officer specified in section 130.

(*2*) If such other sentence is remitted under section 134, the punishment of dismissal shall also be remitted.

CHAPTER X

MISCELLANEOUS

Powers and duties conferable and imposable on members of the Force.

139. (*1*) The Central Government may, by general or special order published in the Official Gazette direct that, subject to such conditions and limitations, and within the local limits of such area adjoining the borders of India, as may be specified in the order, any member of the Force may,—

(*i*) for the purpose of prevention of any offence punishable under the Passport (Entry into India) Act, 1920, the Registration of Foreigners Act, 1939, the Central Excises and Salt Act, 1944, the Foreigners Act, 1946, the Foreign Exchange Regulation Act, 1947, the Customs Act, 1962 or the Passports Act, 1967 or of any cognizable offence punishable under any other Central Act; or

34 of 1920.
16 of 1939.
1 of 1944.
31 of 1946.
7 of 1947.
52 of 1962.
15 of 1967.

(*ii*) for the purpose of apprehending any person who has committed any offence referred to in clause (*i*),

exercise or discharge such of the powers or duties under that Act or any other Central Act as may be specified in the said order, being the powers and duties which, in the opinion of the Central Government, an officer of the corresponding or lower rank is by that or such other Act empowered to exercise or discharge for the said purposes.

(*2*) The Central Government may, by general or special order published in the Official Gazette, confer or impose, with the concurrence of the State Government concerned, any of the powers or duties which may be exercised or discharged under a State Act by a police officer upon a member of the Force who, in the opinion of the Central Government, holds a corresponding or higher rank.

(*3*) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the order or both Houses agree that the order should not be made, the order shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that order.

Protection for acts of members of the Force.

140. (*1*) In any suit or proceeding against any member of the Force for any act done by him in pursuance of a warrant or order of a competent authority, it shall be lawful for him to plead that such act was done by him under the authority of such warrant or order.

(*2*) Any such plea may be proved by the production of the warrant or order directing the act, and if it is so proved the member of the Force shall thereupon be discharged from liability in respect of the act so done by him, notwithstanding any defect in the jurisdiction of the authority which issued such warrant or order.

(*3*) Notwithstanding anything contained in any other law for the time being in force, any legal proceeding (whether civil or criminal) which may lawfully be brought against any member of the Force for anything done or intended to be done under the powers conferred by, or in pursuance of any provision of this Act or the rules, shall be commenced within three months after the act complained of was committed and not otherwise, and notice in writing of such proceeding and of the cause thereof shall be given to the defendant or his superior officer at least one month before the commencement of such proceeding.

Power to make rules.

141. (*1*) The Central Government may, by notification, make rules for the purpose of carrying into effect the provisions of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may provide for,—

(*a*) the constitution, governance, command and discipline of the Force;

(*b*) the enrolment of persons to the Force and the recruitment of other members of the Force;

(*c*) the conditions of service (including deductions from pay and allowances) of members of the Force;

(*d*) the rank, precedence, powers of command and authority of the officers, subordinate officers, under-officers and other persons subject to this Act;

(*e*) the removal, retirement, release or discharge from the service of persons subject to this Act;

(*f*) the purposes and other matters required to be prescribed under section 13;

(*g*) the convening, constitution, adjournment, dissolution and sittings of Security Force Courts, the procedure to be observed in trials by such courts, the persons by whom an accused may be defended in such trials and the appearance of such persons thereat;

(*h*) the confirmation, revision and annulment of, and petitions against, the findings and sentences of Security Force Courts;

(*i*) the forms or orders to be made under the provisions of this Act relating to Security Force Courts and the awards and infliction of death, imprisonment and detention;

(*j*) the carrying into effect of sentences of Security Force Courts;

(*k*) any matter necessary for the purpose of carrying this Act into execution, as far as it relates to the investigation, arrest, custody, trial and punishment of offences triable or punishable under this Act;

(*l*) the ceremonials to be observed and marks of respect to be paid in the Force;

(*m*) the convening of, the constitution, procedure and practice of, Courts of inquiry, the summoning of witnesses before them and the administration of oaths by such Courts;

(*n*) the recruitment and conditions of service of the Chief Law Officer and the Law Officers;

(*o*) any other matter which is to be, or may be prescribed or in respect of which this Act makes no provision or makes insufficient provision and provision is, in the opinion of the Central Government, necessary for the proper implementation of this Act.

(*3*) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Provisions as to existing Border Security Force.

142. (*1*) The Border Security Force in existence at the commencement of this Act shall be deemed to be the Force constituted under this Act.

(*2*) Members of the Border Security Force in existence at the commencement of this Act shall be deemed to have been appointed or as the case may be, enrolled as such under this Act.

(3) Anything done or any action taken before the commencement of this Act in relation to the constitution of the Border Security Force referred to in sub-section (1), in relation to any person appointed or enrolled, as the case may be, thereto, shall be as valid and as effective in law as if such thing or action was done or taken under this Act:

Provided that nothing in this sub-section shall render any person guilty of any offence in respect of anything done or omitted to be done by him before the commencement of this Act.

V. N. BHATIA,
Secy. to the Govt. of India.

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